



ORDINANCE NUMBER 2707

AN ORDINANCE OF THE CITY OF FARMERS BRANCH, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF FARMERS BRANCH, TEXAS, AS HERETOFORE AMENDED; SO AS TO GRANT A SPECIFIC USE PERMIT-INTERIM USE TO ALLOW A RETAIL TIRE STORE AND A SPECIAL EXCEPTION FOR WAIVER OF AUTOMATIC IRRIGATION REQUIREMENT FOR SAID TIRE STORE FOR A PERIOD OF THREE (3) YEARS (TO EXPIRE ON FEBRUARY 17, 2006), PROVIDING THE PROCEDURE FOR THE CITY COUNCIL TO EXTEND THE INTERIM USE FOR A PERIOD NOT TO EXCEED TWO (2) YEARS, ON A 0.37 ACRE TRACT OF LAND KNOWN AS 12900 STEMMONS FREEWAY WITHIN THE PLANNED DEVELOPMENT NO. 70 - OLD FARMERS BRANCH - FREEWAY SUBDISTRICT (PD-70-OFB-FW) ZONING DISTRICT; PROVIDING FOR CONDITIONS OF OPERATION; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00); PROVIDING FOR INJUNCTIVE RELIEF; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Farmers Branch deems it necessary, for the purpose of promoting the health, safety, morals, or general welfare of the City to enact a new zoning ordinance; and

WHEREAS, the City Council has appointed a Planning and Zoning Commission to recommend the boundaries of the various original zoning districts and appropriate regulations be enforced therein and to recommend a new zoning ordinance to amend the Comprehensive Zoning Ordinance; and

WHEREAS, the Planning and Zoning Commission has divided the City into districts and has prepared regulations pertaining to such districts in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health, general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; and

WHEREAS, the Planning and Zoning Commission, has given reasonable consideration, among other things, the character of the districts and their peculiar suitability for particular uses, with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the City; and

WHEREAS, the applicant in Zoning Case #02-SU-09 has agreed to be bound by the terms of their application for zoning and the provisions contained in the Zoning Ordinance concerning the granting of a Specific Use Permit- Interim Use; and

WHEREAS, the applicant has committed that the value of any improvements to be constructed or installed pursuant to this Ordinance will be fully amortized prior to the expiration of the Specific Use Permit- Interim Use; and

WHEREAS, the City Council finds and determines, on the basis of facts presented on the application for a Specific Use Permit-Interim Use and at the public hearings, the following:

1. That the proposed use is consistent with existing uses of adjacent and nearby property;
2. That the proposed use is not consistent with: (a) the reasonable foreseeable uses of adjacent and nearby property anticipated to be in place upon expiration of the term of the Specific Use Permit-Interim Use; and (b) the use of the property contemplated by the City's Comprehensive Plan, as in effect on the date of granting of said permit;
3. That the proposed use will not impair development of adjacent and nearby property in accordance with said Comprehensive Plan during the period for which the Specific Use Permit-Interim Use is in effect;
4. That the proposed use will not adversely affect the City's Thoroughfare Plan and traffic patterns, as in effect at the time of granting of said permit, and as contemplated by the City's Comprehensive Plan; and
5. That any investment contemplated to be made by the applicant in the property subsequent to or in reliance upon the issuance of the permit may reasonably be expected to be recovered prior to the expiration date of the permit; and

WHEREAS, the Planning and Zoning Commission of the City of Farmers Branch and the City of Farmers Branch City Council, in compliance with the Charter and Code of Ordinances of the City of Farmers Branch, and the state law with reference to the granting of changes to the zoning classifications under the Zoning Ordinance Regulations and Zoning Map, have given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all property owners generally, and to the persons interested and situated in the affected area and in the vicinity thereof, the governing body of the City of Farmers Branch is of the opinion that due to a change in condition and in order to protect the public health, welfare and safety, said change in zoning should be made;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS

SECTION 1. That all matters stated in the preamble are found to be true and correct and are incorporated herein as if copied in their entirety.

SECTION 2. That the Comprehensive Zoning Ordinance of the City of Farmers Branch, Texas, be, and the same is hereby amended, by amending the Zoning Map of the City of Farmers Branch so as to grant a Specific Use Permit-Interim Use, for a period of three (3) years (to expire on February 17, 2006) with a procedure for City Council to extend the interim use for a period not to exceed two (2) years, to allow a retail tire store on a 0.37 acre tract of land described in Exhibit "A" and commonly known as 12900 Stemmons Freeway and located within the Planned Development No. Seventy-Old Farmers Branch-Freeway Subdistrict (PD-70-OFB-FW) zoning district.

SECTION 3. That the City Council, solely at its option and discretion, may increase the three (3) years term by an additional term not to exceed two (2) additional years, upon the receipt of written request, which written request shall include the facts in support of the request, received from the Owner of the subject property at least six months prior to the expiration of the term of the permit. The City Council, upon receipt of a timely written request, shall review the application and determine whether or not to extend the term of the permit and considering, amongst other relevant matters, the five (5) factors found and delineated in the 7th "whereas" clause. The City Council's determination to extend or not shall be solely at its discretion and shall be final and non-appealable.

SECTION 4. That a special exception is hereby granted for the 3-year term with an option for a 2-year extension, of the herein designated Specific Use Permit-Interim Use, to allow for a waiver of the Planned Development No. 70-OFB-FW automatic irrigation requirement for the herein designated retail tire store.

SECTION 5. That the dumpster shall be screened by a masonry wall.

SECTION 6. That the above described property shall be used only in the manner and for the purpose provided by the Comprehensive Zoning Ordinance of the City of Farmers Branch as herein amended by the granting of a Specific Use Permit-Interim Use and approval of an associated site plan for a retail tire store in accordance with the approved site plan attached as Exhibit "B" and the Land Use Description statement attached as Exhibit "C".

SECTION 7. That the Specific Use Permit-Interim Use shall commence on February 17, 2003, and expire on February 17, 2006. At the expiration of the term, Owner, if requested by City in writing, will remove all improvements that are inconsistent with the underlying basic zoning ordinance.

SECTION 8. That any person, firm or corporation violating any of the provisions or terms of this ordinance shall be subject to the same penalty as provided for in the Comprehensive Zoning Ordinance of the City of Farmers Branch, and upon conviction shall be punished by a fine not to exceed the sum of two thousand (\$2,000.00) dollars for each offense.

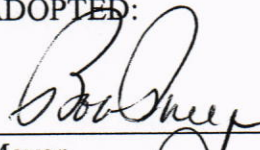
SECTION 9. If any section, paragraph, subdivision, clause, phrase, or provision of this ordinance shall be judged invalid or unconstitutional, the same shall not affect the validity of this ordinance as whole or any portion thereof other than that portion so decided to be invalid or unconstitutional.

SECTION 10. In addition to, and accumulative of all other penalties, the City shall have the right to seek injunctive relief for any and all violations of this ordinance.

SECTION 11. This ordinance shall take effect immediately from and after its passage and publication of the caption of said ordinance, and as the law in such case provides.

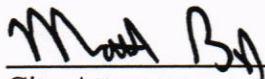
Duly passed by the City Council of the City of Farmers Branch, Texas, on this the 17th day of February, 2003.

ADOPTED:



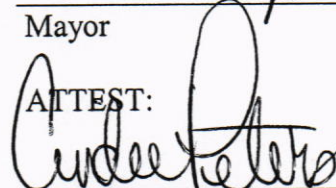
Mayor

APPROVED AS TO FORM:



City Attorney

ATTEST:



City Secretary

LEGAL DESCRIPTION

Being a tract or parcel of land in the Thomas Keenan Survey, Abstract No. 733, and also being in the City of Farmers Branch, Dallas County, Texas, and being more particularly described as follows:

BEGINNING at the intersection of the east line of Interstate Highway 35E (U.S. Highway 77) and the north line of Pike Street;

THENCE N $14^{\circ}32'W$ along said east line of IH 35E a distance of 131.70 feet to an iron pin for corner;

THENCE N $15^{\circ}29'E$ leaving said east line a distance of 53.00 feet to an iron pin for corner.

THENCE East, a distance of 75.00 feet to an iron pin for corner;

THENCE S $14^{\circ}57'E$ a distance of 158.00 feet to an iron pin for corner;

THENCE S $74^{\circ}59'W$ a distance of 98.00 feet to the **PLACE OF BEGINNING** and containing approximately 0.37 acres of land.

Exhibit "A"

Land Use Statement Submitted By Applicant

12900 STEMMONS FREEWAY LAND USE STATEMENT

The subject property includes only 0.37 acre of land and an existing 1,710 sq.ft. building which was designed to be a three bay automobile service station. The underground fuel storage tanks have been removed.

The site is located at the "gateway" of Farmers Branch from the IH-35E (Stemmons Freeway) corridor. It is located within walking distance of the future Farmers Branch Dart Rail Station. As such, this property is destined for redevelopment. The Dart schedule has historically anticipated completion of the Northwest Corridor rail line by 2008. Recent projections have pushed this completion date back to 2010. Generally, most redevelopment dependent upon the Dart rail stations has begun no sooner than two years prior to the completion of the Dart rail station.

This site is too small to be seriously considered for redevelopment on its own. 27% of the total land area is within the 30' front yard setback along IH-35E. An additional 9% of the total land area is reserved for setbacks along the Pike Street frontage. Thus, only 10,315 sq.ft. of land is readily developable. It is not economically feasible to redevelop this site by itself. It will need to be combined with adjoining properties to be economically feasible.

That said, as stated above, the existing building was designed to be a three bay automobile service station which is really not suitable in its current state for any of the uses allowed by right in the Freeway Subdistrict (OFB-FW). It could arguably be used for office, personal services, or retail use. However, it would cost considerably more cash to convert the building than for our requested use of tire sales. Only a small portion of the building is currently air conditioned. The building does not meet the current code mandated energy efficiency requirements without a total remodel. A total remodel would likely require costly asbestos abatement, further extending the amortization time far beyond the target of 2008 for Dart redevelopment to begin.

We are requesting approval for a five year interim use SUP to allow for the sale and installation of tires on automobiles and light trucks. The store anticipates having three employees. The hours of operation will be 7am to 7pm on Monday through Saturday and 8am to 5pm on Sunday. The three bays are 11' wide by 28' deep. This allows tire storage and equipment placement in the front of the bays, leaving all three bays open for tire installation on vehicles. All installation will take place within the bays. No vehicles will be stored outside of the building overnight.

A portion of the concrete paving was removed during the removal of the underground fuel tanks. This paving would be replaced. The roof will be replaced as well as two of the three overhead doors. The building has already been repainted. Additional landscaping will be planted, and a new dumpster screen will be constructed.

In conclusion, neither the building nor the use are what the City may desire for a "gateway", but we all recognize that this request is for an interim use to allow the facility to be utilized until the time is right for redevelopment.